

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ACE AMERICAN INSURANCE COMPANY a/s/o VITO
MARRERO and THE STANDARD FIRE INSURANCE
COMPANY a/s/o ARNOLD MINTZ,

Plaintiffs,

-against-

ANSWER
07 CV 11284
Judge Hellerstein

S/V GLASS SLIPPER in rem and DOMINICK VISTOCO in
personam,

Defendants.

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Defendant, DOMINIC VISTOCO, by his attorneys, KOORS AND JEDNAK, answering the
verified complaint of the Plaintiffs herein, alleges, upon information and belief, as follows:

PARTIES

FIRST: Denies any knowledge or information sufficient to form a belief as to each and
every allegation contained in paragraphs marked and designated 1, 2, 3 and 4 of the complaint.

JURISDICTION

SECOND: Denies any knowledge or information sufficient to form a belief as to paragraph
marked and designated 6 of the complaint and refers all questions of law to the Honorable Court at the
time of trial.

FACTS

THIRD: Denies any knowledge or information sufficient to form a belief as to each and
every allegation contained in paragraphs marked and designated 7 and 8 of the complaint.

FOURTH: Denies each and every allegation contained in paragraph marked and designated
9 of the complaint.

COUNT I

ACE AMERICAN INSURANCE COMPANY v. DEFENDANT

FIFTH: The Defendant repeats and reiterates all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in the paragraph marked and designated 10 of the complaint.

SIXTH: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs marked and designated 11, 12, 13 and 16 of the complaint.

SEVENTH: Denies each and every allegation contained in paragraphs marked and designated 14 and 17 of the complaint.

EIGHTH: Denies any knowledge or information sufficient to form a belief as to paragraphs marked and designated 15 and 18 of the complaint and refers all questions of law to the Honorable Court at the time of trial.

COUNT II
ACE AMERICAN INSURANCE COMPANY v. DEFENDANT

NINTH: The Defendant repeats and reiterates all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in the paragraph marked and designated 19 of the complaint.

TENTH: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs marked and designated 20, 21, 22 and 25 the complaint.

ELEVENTH: Denies each and every allegation contained in paragraph marked and designated 23 of the complaint.

TWELFTH: Denies any knowledge or information sufficient to form a belief as to paragraphs marked and designated 24 and 26 of the complaint and refers all questions of law to the Honorable Court at the time of trial.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

THIRTEENTH: That if the Plaintiffs were caused to sustain injuries and damages at the time and place and in the manner alleged in the complaint, said injuries and damages were caused or contributed to by reason of the carelessness, recklessness and negligence of the Plaintiffs, and the amount of damages recoverable by the Plaintiffs shall be diminished in proportion to which the culpable conduct attributable to the Plaintiffs bears to the total culpable conduct which caused the damages.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

FOURTEENTH: That the Complaint fails to allege sufficient fact to state and constitute a proper cause of action against the defendant.

WHEREFORE, the Defendant, DOMINIC VISTOCO, demands judgment dismissing the complaint herein, together with the costs and disbursements of this action, and such other and further relief as the Court deems just and proper.

DATED: Bronx New York
February 5, 2008

KOORS AND JEDNAK

Paul W. Koors (PK8820)
Attorney for defendant
DOMINIC VISTOCO
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TO:
CASEY & BARNETT, LLC
Attorney for plaintiff
317 Madison Avenue, 21st Floor
New York, New York 10017
212 286-0225

STATE OF NEW YORK)
ss:
COUNTY OF BRONX)

Michelle Castillo, being duly sworn deposes and says that I am not a party to this action, an over the age of 18 years and reside in the Bronx and that:

On February 5, 2008, I served the annexed **ANSWER** upon the attorneys and/or parties listed below by depositing a true copy of the same into the care of the U.S. Postal Service directed to the said attorneys and/or parties as follows:

CASEY & BARNETT, LLC
Attorney for plaintiff
317 Madison Avenue, 21st Floor
New York, New York 10017

such being the address(es) previously designated for that purpose in the preceding papers in this action or being the last known address for that person. Such service was done in full conformance with Rule 2103 of the CPLR.

I am over the age of 18 years.

Michelle Castillo

Sworn to Before Me On
February 5, 2008

CAROL M. WICKHAM
Notary Public, State of New York
No. 01W14824908
Qualified in Westchester County
Commission Expires June 30, 2010